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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/633,609	07/31/2003	Laurakay Bruhn	10021296-1	5153

7590 06/18/2008
AGILENT TECHNOLOGIES, INC.
Legal Department, DL429
Intellectual Property Administration
P.O. Box 7599
Loveland, CO 80537-0599

EXAMINER

LIN, JERRY

ART UNIT	PAPER NUMBER
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1631

MAIL DATE	DELIVERY MODE
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06/18/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Continuation of Note 7 and 11:

Rejection under 35 U.S.C. §102 as being anticipated by Kaushikkar.

Applicants have responded to this rejection by stating that the test files taught by Kaushikkar contain probe locations as opposed to a test type required by the claims. The Examiner disagrees. According the specification at page 9, lines 13-21, a test type includes testing a sample for a particular nucleic acid or peptides. However, the probe locations taught by Kaushikkar contain probes (page 10, paragraph 0089) for nucleic acids or peptides. Thus, selecting one of the files by Kaushikkar determines what nucleic acids or peptides are to be tested in a sample. By selecting what nucleic acids or peptides are to be tested, Kaushikkar teaches selecting a particular test type. This rejection is maintained for reasons for the reasons above and for the reasons of record.

Rejection under 35 U.S.C. §103 as being unpatentable over Kaushikkar in view of Podyminogin et al.

Applicants have responded to this rejection by stating that Podyminogin et al. do not teach purposefully damaging probes. However the instant claims do not recite that the probes are purposefully damaged. Rather the claims state that the probes are incapable of providing signal data because the probes are either cross-linked or cleaved. Furthermore, the claims do no recite damaging probes at specific feature locations; rather the claims recite the probes are damaged outside the sub-array. Given that these limitations are not in the claims, these limitations cannot be used to distinguish the claims from the prior art.

Applicants also state that Podyminogin et al. teaches a preference for ODN probes over cDNA probes. Although Podyminogin et al. does teach this preference, this does not appear to teach away from the claimed invention because the claimed invention does not limit the probes to cDNA probes.

This rejection is maintained for the reasons above and the reasons of record.

Rejection under 35 U.S.C. §103 as being unpatentable over Kaushikkar in view of Sandstrom.

Applicants have replied to this rejection by relying on their response to Kaushikkar. Please see above for the Examiner's response.

Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JERRY LIN whose telephone number is (571)272-2561. The examiner can normally be reached on 7:00-5:30pm, M-TH.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marjorie A. Moran can be reached on (571) 272-0720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1631

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/J. L./

Examiner, Art Unit 1631

6/16/08